

VIRGINIA INDIGENT DEFENSE COMMISSION

From the Desk of the Executive Director

Richard C. Goemann

"In criminal trials a State can no more discriminate on account of poverty than on account of religion, race, or color . . . There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." Griffin v. Illinois, 351 U.S. 12, 17, 19 (1956)

Welcome to the Virginia Indigent Defense Commission ("VAIDC"). Beginning July 1, 2005, all attorneys wishing to represent accused persons who require counsel through court appointment must be certified and included on VAIDC's list of qualified attorneys. Our goal is to ensure that every attorney has the time, training, and resources necessary to provide each client with high quality indigent defense services, a necessary component of a fair and reliable criminal justice system.

A Bit of Background

The 2004 General Assembly, in an overwhelmingly bipartisan effort, created an independent oversight commission for Virginia's indigent defense function, the Virginia Indigent Defense Commission. The VAIDC will be responsible for providing oversight and support for all attorneys who furnish indigent defense service in the Commonwealth, both public defenders and members of the private bar. The VAIDC will provide information on indigent defense to the public and reach out to the courts and Commonwealth's Attorneys as partners in justice.

The VAIDC seeks to provide, for the first time in Virginia, a unified indigent defense voice to advocate for resources and improvements in the criminal justice system. For example, during the 2005 Legislature, the VAIDC, after being in existence for only six months, organized and co-sponsored Indigent Defense Day 2005 ("One Voice for Justice") at the General Assembly and developed the first ever Indigent Defense Legislative Agenda, advocating for fee cap reform (this year helping to achieve a modest increase in the appropriated cap) and sponsoring substantive legislation, including a successful effort to protect clients from the severe consequences of appellate default.

Improving indigent defense in Virginia is an ambitious and multifaceted mission. The American Bar Association's Ten Principles of a Public Defense Delivery System, adopted last year by the Virginia State Bar, require us to work to lower public defender caseloads and create parity in resources and salaries between prosecutors and defenders. The Principles also require the abolishment of caps on fees paid to the private bar, and to ensure that all defense counsel have the ability, training and experience required by the complexity and seriousness of the cases they handle.

The Certification Process

Virginia Code §§ 19.2-163.01 and 19.2-163.8 require that the Virginia Indigent Defense Commission, and for capital defense counsel, the Supreme Court of

Virginia, compile and maintain a list of attorneys qualified to represent accused persons who are in need of counsel pursuant to court appointment. In establishing and updating the list, the Code requires that the Commission “consider all relevant factors, including but not limited to, the attorney's background, experience, and training and the Commission's assessment of whether the attorney is competent to provide quality legal representation.”

In order to fulfill its statutory obligations, the VAIDC has developed a Court Appointed Attorney Certification Application. The application is designed to capture information that will be used to qualify attorneys to represent indigent persons accused of jailable offenses and those persons facing the death penalty.

To guarantee inclusion on the July 1, 2005 Certified Court Appointed Attorney List, please mail your completed application by May 15, 2005 to:

Attorney Certification
Virginia Indigent Defense Commission
701 East Franklin, Suite 1416
Richmond, VA 23219

Moving Forward Together

The VAIDC's ambition is to become the unified voice for improving indigent defense in Virginia. As we move forward, we will need your help to ensure that the services we provide meet your needs. Please provide us with your comments and feedback, or request an application, at the address above. Soon we hope to have a fully functional website (www.indigentdefense.virginia.gov) and e-mail feedback capability to make communication easier. We at the VAIDC look forward to working with you to fulfill the promise of Gideon, ensuring that every person accused of a crime who cannot afford to hire counsel receives high quality indigent defense services, the bedrock of fair and reliable criminal justice in our communities.

“[I]n our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth . . . The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.” Gideon v. Wainright, 372 U.S. 335, 344 (1963)